

REMARKS

This responds to the Office Action dated on March 23, 2006, and the references cited therewith.

Claims 1, 10, 15, 19, 21, 22, 30, 31 are amended, no claims are canceled, and no claims are added; as a result, claims 1-6, 8, 10, 11, 15, 17-22, and 24-31 are now pending in this application.

Rejection of Claims 1-6, 10-11, 15, 17, 19-22, and 25-31 under 35 U.S.C. §103(a)

Claims 1-6, 10-11, 15, 17, 19-22, and 25-31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kang (5,807,357) in view of Hewitt et al. (5,216,759). Applicant has amended claims 1, 10, 15, 19, 21, 22, 30, and 31, from which the other rejected claims depend, and respectfully traverses the rejection.

Kang discloses a nebulizer for treating the eyes, which includes a goggles unit 10 and a nebulizer unit 20. (col. 1, lines 52-54). The nebulizer unit 20 attaches to the goggles unit 10 by plugging mounting rods 63 of the nebulizer unit 20 into mounting holes 151 of the goggles unit 10. (col. 2, lines 13-15). When the nebulizer unit 20 is turned on, eye treatment solution 90 is reduced to a fine spray, which travels through hole 11 into eye chambers 12, 13 defined when the goggles unit is positioned on a face. (col. 2, lines 27-36).

Hewitt et al. disclose safety goggles having a frame 12 constructed from soft, resilient plastic, which allows the frame 12 to contour to a face of a wearer. (col. 3, lines 47-50).

In contrast to that which is disclosed in Kang, Hewitt et al., or their combination, Applicant's amended claims 1, 15, 19, 21, 30, 31, and the claims that depend therefrom include at least the following distinguishing feature:

“... one or more elongated, flexible conduits ...”

Neither Kang nor Hewitt et al. disclose an elongated, flexible conduit through which a fog may pass from an atomizer to a mask. In contrast, the nebulizer of Kang is directly attached

to a goggles unit, with no intervening conduit of any kind. Additionally, the safety goggles of Hewitt et al. include a flexible frame, but do not disclose any type of conduit whatsoever.

Accordingly, neither Kang, Hewitt et al., nor their combination disclose, suggest or motivate the limitations of Applicant's claims 1, 15, 19, 21, 30, 31 or the claims that depend therefrom. For this reason, Applicant believes that the claims are distinguishable over the cited references, and are allowable. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-6, 10-11, 15, 17, 19-22, and 25-31 under 35 U.S.C. §103(a).

Rejection of Claims 8, 18, and 24 under 35 U.S.C. §103(a)

Claims 8, 18, and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kang (5,807,357) in view of Hewitt et al. (5,216,759), and further in view of Dykstra et al. (5,935,982). Applicant respectfully traverses the rejection.

Based on the remarks provided in the previous section, Applicant believes that the rejection of claims 8, 18, and 24 is moot. More specifically, Applicant believes that claims 1 and 15, from which claims 8, 18, and 24 depend, are allowable over the cited references and, accordingly, claims 8, 18, and 24 also are allowable.

Further, Applicant respectfully disagrees with the statement in the Office Action that:

“Dykstra discloses administering a medicine to the eyes, the medicine being in the form of liquid droplets having a size of less than 5 microns, as described in column 12, lines 13-15 and 36-37.” (Office Action p. 6, second paragraph).

The citations to Dykstra et al. are quoted below:

Column 12, lines 13-15: “Ophthalmic formulations are prepared by a similar method to the nasal spray, except that the pH and isotonic factors are preferably adjusted to match that of the eye.”

Column 12, lines 36-37: "When administered through inhalation the compound or salt should be in the form of a plurality of solid particles or droplets having a particle size from about 0.5 to about 5 microns . . ."

Accordingly, the citations to Dykstra et al. disclose the particle size of an inhaled compound, and not a fog that is carried to an eye, as claimed in Applicant's claims.

Neither Kang, Hewitt et al., Dykstra et al. nor their combination disclose, suggest or motivate the limitations of Applicant's claims 8, 18, or 24. For this reason, Applicant believes that the claims are distinguishable over the cited references, and are allowable. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 18, 18, and 24 under 35 U.S.C. §103(a).

Support for Amendments to the Claims

Amendments to claims 1, 15, 19, 21, 30, and 31 are supported in the originally filed application in Figures 1-3 (element 102), and Figure 5 (element 510).

Amendments to claims 10 and 22 are to correct typographical errors.

No new matter is added as a result of the claim amendments.

Amendment to the Specification

The amendment to the Specification is to correct a typographical error.

No new matter is added as a result of the amendment.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (480) 415-5675 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By his Representative,

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Date 6/23/2006

By


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23 day of June, 2006.

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